IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

FAO No. 383 of 2000.

Date of decision: 23.3.2007.

Mst. Safine Begum ….. **Appellant.**

Vs.

Mohd. Salim …. **Respondent.**

Coram

The Hon'ble Mr. Justice Surjit Singh, Judge.

Whether approved for reporting?[1]

For the Appellant : **Mr.Kuldip Singh, Sr. Advocate with Mr. Karan Singh, Advocate.**

For the Respondents : **Mr. R.K.Gautam, Sr. Advocate with Mr. Anurag Sharma, Advocate.**

Surjit Singh, Judge (Oral).

Heard and gone through the record.

2. Respondent filed a petition, under Sections 10 & 25 of the Guardians and Wards Act, 1890, seeking custody of a minor male child from the appellant alleging that the said male child was the son of the parties and that the appellant had deserted him and carried the son alongwith her, while leaving the house. It was alleged that the child had been neglected, inasmuch as the appellant had joined some training course (Laboratory Technician Course) at I.G.M.C., Shimla, while the child had been left by her with her parents in village Kasipur in Sirmour District and there was no-one in the family of the parents of the appellant to properly take care of the child.

Whether the reporters of the local papers may be allowed to see the Judgment?

3. Appellant contested the petition. She admitted that she had joined Laboratory Technician Course at IGMC, Shimla, but alleged that the child was being looked after by her mother and other members of the family including her father and brother. She denied that the child was neglected. Appellant also alleged that respondent had developed illicit relation with a lady named Narinder Kaur and on account of that she had left the matrimonial home and that when the respondent was living in adultery, he was not entitled to the custody of the child. It was nobody's case that the appellant did not have the means to maintain and educate the minor properly.

4. The petition was filed in the year 1999. Admittedly, the Laboratory Technician Course is of a short duration of one or two years. It has been admitted that she has completed the aforesaid course and is now gainfully employed. It also appears from the evidence, i.e. the photographs Ex. R-1 and Ex. R-2, that probably the respondent is having some relationship with the lady appearing in the photographs.

5. The reasons recorded by the learned trial court for allowing the petition of the respondent are that the appellant is undergoing training at a far off place and her mother cannot spare much time to take care of and look after the minor. Both these reasons have ceased to exist, on account of the appellant's having completed her training and having been gainfully employed and the child being now in her own personal custody, which fact is admitted by both the parties.

6. In view of the above stated position, the appeal is accepted. The impugned order is set-aside and consequently the petition of the respondent stands dismissed. However, it is ordered that the respondent shall have the right to visit and meet the child twice a month.

March 23, 2007. **(Surjit Singh)**
(*Hem*) **Judge.**